

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
April 26, 2012**

Members Present

Bill O'Brien, Chairman
Jack Lessard (Alternate)
Vic Lessard
Bryan Provencal
Ed St. Pierre

Others Present

Kevin Schultz, Building Inspector
Joan Rice, Secretary

Chairman O'Brien called the meeting to order at 7:00 p.m. and announced that the session was a continuation of last week's meeting (April 19, 2012).

Chairman O'Brien introduced the members of the Board.

The Pledge of Allegiance was said.

PETITION SESSION

18-12 ... The petition of Don Brust for property located at 225 Ocean Blvd. seeking relief from Article III. Use Regulations (unenumerated use) to allow fusion cigar and Hookah Lounge Inc. which is an establishment that exclusively occupies the 2nd floor of 225 Ocean Blvd. and is primarily engaged in retail sales of tobacco and alcohol products for consumption by customers on the premises. It shall also sell non-alcoholic drinks, hot and cold beverages, light bar menu snacks, and light, live and D.J. music at night. The property is located on Map 282, Lot 174, and in a BS Zone.

Attorney Mark Ryder, Mr. Ahmed and Joshua Piper came forward. Attorney Ryder said the petitioner would like to bring a cigar and Hookah lounge to the property. Hookah is the partaking of tobacco, molasses and spices through pipes. It will be a social gathering place. This type of lounge is very popular in Europe and Montreal and will add something special to Hampton Beach. There will be high end clientele because these products are not cheap. This operation will be regulated by the Liquor Commission. Attorney Ryder went through the five criteria and said he felt they had been met.

Mr. Schultz said the legislation for this type of operation is new from 2010. A Hookah cigar bar is not in the Town's ordinances.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

Chuck Rage, Ocean Blvd., said he was opposed to this petition because the Town's master plan is to bring in more family oriented enterprises to the beach and this operation does not meet that objective.

Back to the Board

Mr. Provencal noted that a few years ago a variance would not be needed because smoking was allowed in bars. He asked if they would be serving snacks. Mr. Ahmed said they would be serving bar snacks like peanuts.

Mr. V. Lessard said it is important to look out for what the public wants. He stated that he was a little afraid of this type of operation.

Mr. St. Pierre said he saw it as similar to the nano-brewery that was just granted a variance. This is something new. Sections 3.5 and 3.4.2 of the zoning ordinance are close to what is being described here. Mr. St. Pierre said he did not believe any illegal activity would take place and that it does not violate the spirit of the ordinance. Mr. Provencal said he agreed with Mr. St. Pierre.

Moved by Mr. St. Pierre and seconded by Mr. Provencal, to grant Petition 18-12 with the stipulation that there would be no smokable incense or synthetic marijuana within the building.

Chairman O'Brien asked the Board if the five criteria had been met. Mr. Provencal, Mr. St. Pierre, and Chairman O'Brien agreed that they had. Mr. V. Lessard said he did not because he did not see hardship. Mr. J. Lessard said he did not because an establishment of this sort would be asking for problems.

Vote: 3-2 (J. Lessard, V. Lessard). Motion passed.

19-12 ... The petition of Dorothy Seed for property located at 36 Smith Avenue seeking relief from Article 1.3 and Article VIII, Sections 8.2.1, 8.2.3 and 8.2.6 to raise and rebuild single family structure due to age and damage that is un-repairable. The property is located on Map 152, Lot 12, and in a BS Zone.

Matthew Seed came forward. Mr. Seed said they want to rebuild a single family beach cottage. The present structure has fallen into disrepair due to age and damage. The new structure will be very similar but will be brought up to code. The surface area will be less than what exists now. Mr. Seed went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked if their improvements would conform to the current ordinances. Mr. Seed said they would.

Comments from the Audience

Stew Fanning, 4 Smith Avenue, said this will be a great improvement for the property and he was definitely in favor of granting the petition.

Back to the Board

Moved by Mr. V. Lessard and seconded by Mr. Provencal, to grant Petition 19-12.

Chairman O'Brien asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 5-0-0. Motion passed unanimously.

BUSINESS SESSION

Motion for Rehearing for Petition 08-12 California Property Management

Chairman O'Brien said he did not feel a rehearing was needed on this matter and was prepared to discuss each paragraph of the rehearing petition.

Mr. V. Lessard said he has always stepped down from the Board when it was warranted.

Chairman O'Brien then commented on each individual paragraph of the Motion for Rehearing. He also advised the Board that it was Town Counsel's opinion that Mr. V. Lessard did not have to step down during this hearing.

Chairman O'Brien said it was his recommendation that a rehearing not be held on this matter.

Moved by Chairman O'Brien and seconded by Mr. Provencal, that there not be a rehearing on Petition 08-12 California Property Management.

Vote: 4-0-1 (V. Lessard). Motion passed.

Approval of Minutes

Moved by Mr. V. Lessard and seconded by Mr. Provencal, to approve the Minutes of March 15, 2012.

Vote: 4-0-1 (J. Lessard). Motion passed.

Rules of Procedure

The Rules of Procedure were reviewed.

Moved by Mr. V. Lessard and seconded by Mr. Provencal, to make the following changes in the Rules of Procedure:

1. Page 4, under "Petitions", subparagraph 1, Line 5: Date should be changed from July 2007 to April 2012.
2. Page 5, under "Fees", subparagraph 1: Amount should be \$125.00

Vote: 5-0-0. Motion passed unanimously.

Chairman O'Brien requested that no electronic devices be on during Board meetings. Mr. Provencal and Mr. St. Pierre expressed agreement. Mr. V. Lessard wanted to have his phone on quiet in case of an emergency. Chairman O'Brien stated that if there is a necessity to use such a device, that member should step down from the Board.

Chairman O'Brien asked that anyone interested in being an Alternate; please submit a letter to the Board.

Adjournment

There being no further business, Mr. Provencal **moved** and Mr. St. Pierre seconded, that the meeting be adjourned.

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Joan Rice
Secretary